3/30/2016 11:28:52 AM
Chris Daniel - District Clerk
Harris County
Envelope No: 9853912
By: ANDERSON, SARAH A
Filed: 3/30/2016 11:28:52 AM

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): 2016-20155 / Court: 113 COURT (FOR CLERK USE ONLY):

STYLED SILVIA MARTINEZ VS TYSON FOODS, INC.

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:

Name: Jeff Musslewhite
Email: Jeff@lbjmlaw.com
Address: 1770 St. James Pl #100
Telephone: 281-810-8780
City/State/Zip: Houston, Tx 77056
Fax: 888-599-4109
Signature: ____
State Bar No: 24041555

Names of parties in case:

Plaintiff(s)/Petitioner(s): Silvia Martinez

Defendant(s)/Respondent(s): Tyson Foods, Inc.

[Attach additional page as necessary to list all parties]

Person or entity completing sheet is:

- ☒ Attorney for Plaintiff/Petitioner
- ☐ *Pro Se* Plaintiff/Petitioner
- ☐ Title IV-D Agency
- ☐ Other: ____

Additional Parties in Child Support Case:

Custodial Parent: ____

Non-Custodial Parent: ____

Presumed Father: ____

2. Indicate case type, or identify the most important issue in the case (*select only 1*):

Civil

Contract

Debt/Contract
- ☐ Consumer/DTPA
- ☐ Debt/Contract
- ☐ Fraud/Misrepresentation
- ☐ Other Debt/Contract: ____

Foreclosure
- ☐ Home Equity—Expedited
- ☐ Other Foreclosure
- ☐ Franchise
- ☐ Insurance
- ☐ Landlord/Tenant
- ☐ Non-Competition
- ☐ Partnership
- ☐ Other Contract: ____

Injury or Damage
- ☐ Assault/Battery
- ☐ Construction
- ☐ Defamation

Malpractice
- ☐ Accounting
- ☐ Legal
- ☐ Medical
- ☐ Other Professional Liability: ____
- ☐ Motor Vehicle Accident
- ☒ Premises

Product Liability
- ☐ Asbestos/Silica
- ☐ Other Product Liability List Product: ____
- ☐ Other Injury or Damage: ____

Real Property
- ☐ Eminent Domain/Condemnation
- ☐ Partition
- ☐ Quiet Title
- ☐ Trespass to Try Title
- ☐ Other Property: ____

Related to Criminal Matters
- ☐ Expunction
- ☐ Judgment Nisi
- ☐ Non-Disclosure
- ☐ Seizure/Forfeiture
- ☐ Writ of Habeas Corpus—Pre-indictment
- ☐ Other: ____

Employment
- ☐ Discrimination
- ☐ Retaliation
- ☐ Termination
- ☐ Workers' Compensation
- ☐ Other Employment: ____

Other Civil
- ☐ Administrative Appeal
- ☐ Antitrust/Unfair Competition
- ☐ Code Violations
- ☐ Foreign Judgment
- ☐ Intellectual Property
- ☐ Lawyer Discipline
- ☐ Perpetuate Testimony
- ☐ Securities/Stock
- ☐ Tortious Interference
- ☐ Other: ____

Tax
- ☐ Tax Appraisal
- ☐ Tax Delinquency
- ☐ Other Tax

Family Law

Marriage Relationship
- ☐ Annulment
- ☐ Declare Marriage Void

Divorce
- ☐ With Children
- ☐ No Children

Post-judgment Actions (non-Title IV-D)
- ☐ Enforcement
- ☐ Modification—Custody
- ☐ Modification—Other

Title IV-D
- ☐ Enforcement/Modification
- ☐ Paternity
- ☐ Reciprocals (UIFSA)
- ☐ Support Order

Other Family Law
- ☐ Enforce Foreign Judgment
- ☐ Habeas Corpus
- ☐ Name Change
- ☐ Protective Order
- ☐ Removal of Disabilities of Minority
- ☐ Other: ____

Parent-Child Relationship
- ☐ Adoption/Adoption with Termination
- ☐ Child Protection
- ☐ Child Support
- ☐ Custody or Visitation
- ☐ Gestational Parenting
- ☐ Grandparent Access
- ☐ Paternity/Parentage
- ☐ Termination of Parental Rights
- ☐ Other Parent-Child: ____

Probate & Mental Health

Probate/Wills/Intestate Administration
- ☐ Dependent Administration
- ☐ Independent Administration
- ☐ Other Estate Proceedings
- ☐ Guardianship—Adult
- ☐ Guardianship—Minor
- ☐ Mental Health
- ☐ Other: ____

3. Indicate procedure or remedy, if applicable (*may select more than 1*):

- ☐ Appeal from Municipal or Justice Court
- ☐ Arbitration-related
- ☐ Attachment
- ☐ Bill of Review
- ☐ Certiorari
- ☐ Class Action
- ☐ Declaratory Judgment
- ☐ Garnishment
- ☐ Interpleader
- ☐ License
- ☐ Mandamus
- ☐ Post-judgment
- ☒ Prejudgment Remedy
- ☐ Protective Order
- ☐ Receiver
- ☐ Sequestration
- ☐ Temporary Restraining Order/Injunction
- ☐ Turnover

4. Indicate damages sought (*do not select if it is a family law case*):

- ☐ Less than $100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees
- ☐ Less than $100,000 and non-monetary relief
- ☐ Over $100,000 but not more than $200,000
- ☐ Over $200,000 but not more than $1,000,000
- ☒ Over $1,000,000

DISTRICT COURT OF HARRIS COUNTY TEXAS

I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this May 9, 2016

Certified Document Number: 69604094 Total Pages: 1

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

3/30/2016 11:28:52 AM
Chris Daniel - District Clerk
Harris County
Envelope No: 9853912
By: ANDERSON, SARAH A
Filed: 3/30/2016 11:28:52 AM

CIVIL PROCESS REQUEST FORM

2016-20155 / Court: 113

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING
FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: ______________ **CURRENT COURT:** ______________

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): ______________

FILE DATE OF MOTION: ______________ Month/ Day Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: Tyson Foods, Inc.

ADDRESS: 1999 Bryan Street, Suite 900, Dallas, Texas 75201

AGENT, (*if applicable*): CT Corporation System,

TYPE OF SERVICE/PROCESS TO BE ISSUED (*see reverse for specific type*): ______________

SERVICE BY (*check one*):

- ☐ ATTORNEY PICK-UP ☐ CONSTABLE
- ☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: ______________ Phone: ______________
- x☐ MAIL ☐ CERTIFIED MAIL
- ☐ PUBLICATION:
  Type of Publication: ☐ COURTHOUSE DOOR, or ☐ NEWSPAPER OF YOUR CHOICE: ______________
- ☐ OTHER, *explain* ______________

ATTENTION: Effective June1, 2010

For all Services Provided by the DISTRCT CLERKS OFFICE requiring our office to MAIL something back to the Requesting Party, we require that the Requesting Party provide a Self-Addressed Stamped Envelope with sufficient postage for mail back. Thanks you,

****

2. NAME: ______________

ADDRESS: ______________

AGENT, (*if applicable*): ______________

TYPE OF SERVICE/PROCESS TO BE ISSUED (*see reverse for specific type*): ______________

SERVICE BY (*check one*):

- ☐ ATTORNEY PICK-UP ☐ CONSTABLE
- ☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: ______________ Phone: ______________
- ☐ MAIL ☐ CERTIFIED MAIL
- ☐ PUBLICATION:
  Type of Publication: ☐ COURTHOUSE DOOR, or ☐ NEWSPAPER OF YOUR CHOICE: ______________
- ☐ OTHER, *explain* ______________

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Jeff Musslewhite TEXAS BAR NO./ID NO. 24041555

MAILING ADDRESS: 1770 St. James Place, Suite 100, Houston, Texas 77056

PHONE NUMBER: 281 (area code) 810-8780 (phone number) FAX NUMBER: 888 (area code) 599-4190 (fax number)

EMAIL ADDRESS: Jeff@lbjmlaw.com

DISTRICT COURT OF HARRIS COUNTY TEXAS

I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this May 9, 2016

Certified Document Number: 69604095 Total Pages: 1

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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3/30/2016 11:28:52 AM
Chris Daniel - District Clerk Harris County
Envelope No. 9853912
By: Sarah Anderson
Filed: 3/30/2016 11:28:52 AM

2016-20155 / Court: 113

CAUSE NO. ____________

SILVIA MARTINEZ *Plaintiff,*	§ § §	**IN THE DISTRICT COURT**
VS.	§ §	**OF HARRIS COUNTY, TEXAS**
TYSON FOODS, INC. *Defendant,*	§ §	________**JUDICIAL DISTRICT**

PLAINTIFF SILVIA MARTINEZ'S ORIGINAL PETITION, REQUESTS FOR DISCLOSURE AND RULE 193.7 NOTICE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **SILVIA MARTINEZ**, hereinafter referred to as Plaintiff, and files this lawsuit against **TYSON FOODS, INC.**, hereinafter referred to as Defendant, and in support thereof, for cause of action would respectfully show this Honorable Court as follows:

I. DISCOVERY AND DOCKET CONTROL

1.1 Plaintiff requests that Discovery be conducted under Level II of TEXAS RULES OF CIVIL PROCEDURE. Plaintiff hereby requests that the parties to the lawsuit be permitted to enter an agreed docket control order to schedule the deadlines of the instant action.

II. PARTIES

2.1 Plaintiff, **SILVIA MARTINEZ,** is a resident citizen of Houston, Harris County, Texas.

2.2 Defendant, **TYSON FOODS, INC.** is a foreign for profit Corporation doing business in the State of Texas, and may be served by serving **CT CORPORATION SYSTEM, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.**

III.
JURISDICTION AND VENUE

3.1 This Court has jurisdiction in this matter because the damages to Plaintiff are within the jurisdictional limits of this Court.

3.2 All or a substantial part of the events or omissions giving rise to the claim occurred in Harris County. Therefore, venue is proper pursuant to §15.001 and §15.002(a) (1) of the TEXAS CIVIL PRACTICE & REMEDIES CODE.

3.3 All other conditions precedent to the filing of this suit have been met.

IV.
FACTUAL BACKGROUND

4.1 This case arises from an on the job injury caused by the negligent acts of the Defendants. Nothing Plaintiff did caused or contributed to this occurrence.

4.2 On or about October 24, 2015, Plaintiff Silvia Martinez was involved in a serious injury-producing incident, wherein she was caused to suffer injuries to her both legs and ankles. At the time of this injury-producing incident, Ms. Martinez was working at the Tyson Foods, Inc. at 300 Portall Street in Houston, Texas. At the time of this incident, Plaintiff was an employee of Defendant and was in the course and scope of her employment. While preparing to end her shift, she was caused to slip and fall down a flight of stairs that were poorly lit and hand no handrails. As a result of her injury, Plaintiff has been forced to undergo months of medical treatment for the fractures sustained to both of her legs and ankles.

V.
NEGLIGENCE CAUSES OF ACTION AGAINST DEFENDANT TYSON FOODS, INC.

5.1 Defendant Tyson Foods, Inc. was the employer of Plaintiff Silvia Martinez and responsible for the safety of Plaintiff. At all times material to this lawsuit, Plaintiff was an employee of Defendant Tyson Foods, Inc. and was acting within the course and scope of her employment with Defendant Tyson Foods, Inc. As a non-subscriber to the Texas Workers Compensation Act, Defendant Tyson Foods, Inc. is deprived of certain common law defenses including, but not limited to, asserting any comparative fault of Plaintiff, Silvia Martinez.

5.2 The independent conduct of this Defendant constitutes negligence. Such negligent acts and omissions include, but are not limited to the following:

a. failing to provide a reasonably safe place to work;

b. failing to provide the proper equipment or tools for Plaintiff on the date of her injury;

c. failing to properly assess the work place where Plaintiff was required to work for danger;

d. failing to provide adequate lighting in the stair well at the time of Plaintiff's injury;

e. failing to provide the necessary equipment, including hand rails in the stair well, for Plaintiff to perform her job safely;

f. failing to act as a reasonable and prudent employer under the same or similar circumstances;

g. failing to adhere to Texas Labor Code § 411.103, DUTY OF EMPLOYER TO PROVIDE SAFE WORKPLACE. Which states that each employer shall: (1) provide and maintain employment and a place of employment that is reasonably safe and healthful for employees; (2) install, maintain, and use methods, processes, devices, and safeguards, including methods of sanitation and hygiene, that are reasonably necessary to protect the life, health, and safety of the employer's employees; and (3) take all other actions reasonably necessary to make the employment and place of employment safe, and

h. in such other ways to be shown at or before the time of trial.

5.3 The foregoing acts and omissions, singularly and collectively, on the part of this Defendant constituted negligence and such negligence was a proximate cause of the occurrence made basis of this suit and Plaintiff's injuries and damages.

VI.
GROSS NEGLIGENCE OF DEFENDANT TYSON FOODS, INC.

6.1 Defendant Tyson Foods, Inc. was grossly negligent in failing to provide a reasonably safe place to work as required under the laws of the State of Texas. Defendant Tyson Foods, Inc. grossly negligent conduct was a proximate cause of Plaintiff's injuries and damages.

6.2 The conduct of this Defendant, which when viewed objectively from the standpoint of this Defendant at the time of its occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. This Defendant had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety and welfare of others. Consequently, this Defendant's conduct constitutes gross negligence. Such gross negligence was a proximate cause of the occurrence and Plaintiff's resulting injuries and damages.

6.3 This Defendant's acts and omissions constitute gross negligence. Such grossly negligent acts and omissions include, but are not limited to the following:

a. failing to provide a reasonably safe place to work;

b. failing to provide the proper equipment or tools for Plaintiff on the date of her injury;

c. failing to properly assess the work place where Plaintiff was required to work for danger;

d. failing to provide adequate lighting in the stair well at the time of Plaintiff's injury;

e. failing to provide the necessary equipment, including hand rails in the stair well, for Plaintiff to perform her job safely;

f. failing to act as a reasonable and prudent employer under the same or similar circumstances;

g. failing to provide and maintain employment and a place of employment as is required in Texas Labor Code § 411.103, DUTY OF EMPLOYER TO PROVIDE SAFE WORKPLACE that is reasonably safe and healthful for employees; install, maintain, and use methods, processes, devices, and safeguards, including methods of sanitation and hygiene, that are reasonably necessary to protect the life, health, and safety of the employer's employees; and take all other actions reasonably necessary to make the employment and place of employment safe, and

h. in such other ways to be shown at or before the time of trial.

6.4 Plaintiff would show that the foregoing acts of gross negligence on the part of the Defendant, either collectively or singularly, caused the injuries and damages suffered by Plaintiff and that same constituted gross negligence.

VII.
DAMAGES

7.1 As a result of the negligent acts of Defendants, Plaintiff Silvia Martinez incurred necessary hospital and medical expenses and will continue to incur medical expenses in connection with said injuries for an undetermined length of time in the future.

7.2 As a direct and proximate result of the negligence of Defendants, Plaintiff Silvia Martinez suffered severe injuries and extreme physical pain, suffering and mental anguish, physical incapacity and in all probability, Plaintiff Silvia Martinez will be forced to endure physical pain, suffering, mental anguish and physical incapacity for an undetermined length of time and probably for the remainder of her life. In the incident made the basis of this suit, Plaintiff suffered serious and permanent fractures to both of her legs. Plaintiff was forced to undergo extensive medical treatment in order to treat the injuries sustained. Plaintiff Silvia Martinez continues to require ongoing medical treatment and in reasonable probability will continue to require medical treatment for the rest of her life due to the permanent nature of her injuries.

7.3 All damages sought by Plaintiff Silvia Martinez include damages that were sustained in the past, and that, in reasonable probability, will be sustained in the future. Plaintiff Silvia Martinez seeks both pre-judgment and post judgment interest as allowed by law, for all costs of Court, and all other relief, both at law and in equity. Therefore, Plaintiff Leal will seek to recover all damages allowed by law, not to exceed $2,000,000.00 including any damages to compensate her for the following:

a. all necessary medical care expenses in the past;

b. all necessary medical care expenses and assistance that, in reasonable probability, Silvia Martinez will sustain in the future;

c. physical pain and suffering in the past;

d. physical pain and suffering that, in reasonable probability, she will sustain in the future;

e. mental anguish in the past;

f. mental anguish that, in reasonable probability, Silvia Martinez will sustain in the future;

g. physical impairment in the past;

h. physical impairment that, in reasonable probability, Silvia Martinez will sustain in the future;

i. disfigurement in the past;

j. disfigurement that, in reasonable probability, Silvia Martinez will sustain in the future;

k. any and all necessary, long term care and assistance in the future; and

l. punitive damages.

VIII.
EXEMPLARY DAMAGES

8.1 Defendants' actions and violations described above constitute gross negligence pursuant to Texas statutes and ordinances that govern safety in the workplace. Plaintiff would further show that, collectively and singularly, Defendants' conduct constitutes gross negligence and conscious indifference as those terms are defined and interpreted under Texas law. As such, Plaintiff is entitled to recover and hereby sue for the recovery of punitive damages to punish Defendants and to deter similar future conduct.

8.2 Further, Plaintiff Silvia Martinez alleges that her injuries were directly and proximately caused by the gross negligence, conscious indifference and utter disregard for the safety and welfare of the Plaintiff on the part of the Defendants. Plaintiff Silvia Martinez requests that the award for this wrongdoing be a reasonable amount that would deter Defendants and others from committing like offenses and wrongs in the future. Plaintiff alleges that if each of the acts of negligence set forth did not independently constitute gross negligence, then certainly all of the acts of negligence, combined and in the aggregate, constitutes gross negligence and were the proximate cause of the Plaintiff's injuries and resulting damages.

8.3 Plaintiff alleges that the provision within Section 41.008(b) of the TEXAS CIVIL PRACTICE AND REMEDIES CODE limiting the amount of exemplary damages assessed against Defendants to two (2) times the amount of economic damages plus an amount equal to any noneconomic damages found by the jury, not to exceed $750,000, or $200,000, whichever is greater, is unconstitutional, as it violates:

a. SECTION ONE OF THE FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, which guarantees due process and equal protection;

b. ARTICLE ONE, SECTION THREE OF THE TEXAS CONSTITUTION, which guarantees equal protection of the laws;

c. ARTICLE ONE, SECTION THIRTEEN OF THE TEXAS CONSTITUTION, which guarantees access to open courts for every person for an injury done him, and that each such person shall have remedy by due course of law;

d. ARTICLE ONE, SECTION NINETEEN OF THE TEXAS CONSTITUTION, which guarantees due course of law;

e. ARTICLE TWO, SECTION ONE OF THE TEXAS CONSTITUTION, which prohibits any one of the three branches of government from exercising any power properly attached to either of the others, specifically, prohibiting the legislature from exercising power properly attached to the judiciary;

f. ARTICLE THREE, SECTION FIFTY-SIX OF THE TEXAS CONSTITUTION, which prohibits the legislature from passing any local or special law authorizing limitation of civil actions; and

g. ARTICLE ONE, SECTION FIFTEEN, AND ARTICLE FIVE, SECTION TEN OF THE TEXAS CONSTITUTION, which guarantee the right to trial by jury in civil cases.

IX.
REQUEST FOR DISCLOSURE

9.1 Pursuant to Rule 194, of the TEXAS RULES OF CIVIL PROCEDURE, request is made that each Defendant disclose, within fifty (50) days of service of this request, the information or material described in Rule 194.2 (a)-(l). Each Defendant must serve a written response to these Requests for Disclosure on Plaintiff within fifty (50) days after the service of this request.

X.
RULE 193.7 NOTICE

10.1 Plaintiff hereby puts Defendants on notice that Plaintiff intends to use Defendants' discovery responses as evidence at trial in accordance with such right and privileges established by TEXAS RULE OF CIVIL PROCEDURE 193.7.

XI.
JURY DEMAND

11.1 Pursuant to Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff respectfully request and demands a trial by jury.

XII.
PRAYER

12.1 WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendants be cited to appear and answer herein as the law directs, and that upon final hearing, and that Plaintiff have and recover judgment of and from the Defendants not to exceed $2,000,000.00 pursuant to the above and foregoing allegations in such amounts as hereinabove set out and as the evidence may show proper at the time of trial, together with interest thereon at the legal rate, costs of Court, and for such other and further relief, both general and special, at law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,
MCDONALD WORLEY, PC

By: */s/ Donald Worley*
Donald S. Worley
Don@mcdonaldworley.com
Texas Bar No. 24003208
Jeff Musslewhite, *Of Counsel*
Jeff@lbjmlaw.com
Texas Bar No. 24041555
Lori Brown, *Of Counsel*
Lori@lbjmlaw.com
Texas Bar No. 0792375
1770 St. James Place, Suite 100
Houston, TX 77056
Tel. (713) 523-5500
Fax. (713) 523-5501

Attorneys for Plaintiff,
SILVIA MARTINEZ

I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this May 9, 2016

Certified Document Number: 69604093 Total Pages: 10

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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5/9/2016 9:07:35 AM
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Envelope No. 10517178
By: Suzanne Gillaspie
Filed: 5/9/2016 9:07:35 AM

CAUSE NO. 2016-20155

SILVIA MARTINEZ,	§	**IN THE DISTRICT COURT**
Plaintiff,	§	
	§	
v.	§	**OF HARRIS COUNTY, TEXAS**
	§	
TYSON FOODS, INC.,	§	
	§	
Defendant.	§	**113th JUDICIAL DISTRICT**

DEFENDANT TYSON FOODS, INC.'S ORIGINAL ANSWER

Defendant, Tyson Foods, Inc. ("Defendant"), files its Original Answer and states the following:

I. GENERAL DENIAL

1. Defendant denies each and every, all and singular, the material allegations contained within Plaintiff's pleading and demands strict proof thereof.

II. SPECIAL EXCEPTION

2. Defendant specially excepts to *Plaintiff's Original Petition and Requests for Disclosure* in its entirety because Plaintiff has pled for the recovery of monetary damages but has failed to specify the total amount of damages which they seek to recover pursuant to the specific requirements of Texas Rule of Civil Procedure 47(c). Further, a party that fails to comply with Rule 47(c) may not conduct discovery until the party's pleading is amended to comply. Defendant requests that, after notice and hearing, the Court sustains this special exception and order Plaintiff to re-plead and identify with specificity the total amount of damages in

accordance with Rule 47(c). Should Plaintiff refuse or fail to cure this defect, Defendant prays the Court will strike *Plaintiff's Original Petition and Requests for Disclosure* in its entirety.

III.
JURY DEMAND

3. In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendant demands a trial by jury.

Defendant, Tyson Foods, Inc., prays that Plaintiff take nothing by this suit, and that Defendant goes hence with its costs without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

KANE RUSSELL COLEMAN & LOGAN PC

By: */s/ Zach T. Mayer*
Zach T. Mayer
Lead Attorney
Texas State Bar No. 24013118
zmayer@krcl.com
Brian J. Fisher
Texas State Bar No. 24032178
bfisher@krcl.com

1601 Elm Street, Suite 3700
Dallas, Texas 75201
(214) 777-4200 / Fax (214) 777-4299

ATTORNEYS FOR DEFENDANT
TYSON FOODS, INC.

CERTIFICATE OF SERVICE

This is to certify that on this the 9th day of May 2016, a true and correct copy of the foregoing instrument is being served on all counsel of record, as follows:

VIA E-SERVICE
Donald S. Worley
McDONALD WORLEY PC
1770 St. James Place, Suite 100
Houston, Texas 77056
don@mcdonaldworley.com

/s/ Zach T. Mayer
Zach T. Mayer

DISTRICT COURT OF HARRIS COUNTY TEXAS

I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
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Certified Document Number: 70147022 Total Pages: 3

Chris Daniel

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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